

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

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Attorneys for Defendant

BLUE DOLPHIN CHARTERS, LTD.

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 19 2004

V. Goodsill and
BalDEMOR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MATTHEW ISHAM, individually and
as Guardian ad Litem for HAYDEN
ISHAM, a minor; ROXANNE BEST
ISHAM,

Plaintiffs,

vs.

BLUE DOLPHIN CHARTERS, LTD.
and BLUE DOLPHIN DIVING, LTD.,
CAPTAIN ANDY'S SAILING, INC.,
DOES 1-105,

Defendants.

CIVIL NO. CV04-00559 ACK/KSC

DEFENDANT BLUE DOLPHIN
CHARTERS, LTD.'S ANSWER TO
SEAMAN'S COMPLAINT FOR
DAMAGES FOR PERSONAL
INJURIES UNDER THE JONES
ACT AND THE GENERAL
MARITIME LAW, COMPLAINT
FOR PERSONAL INJURY
DAMAGES, LOSS OF
CONSORTIUM, FILED ON
SEPTEMBER 14, 2004;
DEFENDANT BLUE DOLPHIN
CHARTERS, LTD.'S CROSS-
CLAIM AGAINST DEFENDANT
CAPTAIN ANDY'S SAILING,
INC.; AND CERTIFICATE OF
SERVICE

**DEFENDANT BLUE DOLPHIN CHARTERS, LTD.'S
ANSWER TO SEAMAN'S COMPLAINT FOR DAMAGES
FOR PERSONAL INJURIES UNDER THE JONES ACT
AND THE GENERAL MARITIME LAW,
COMPLAINT FOR PERSONAL INJURY DAMAGES,
LOSS OF CONSORTIUM FILED ON SEPTEMBER 14, 2004**

COMES NOW, Defendant BLUE DOLPHIN CHARTERS, LTD.

("Defendant"), by and through its attorneys, GOODSILL ANDERSON QUINN & STIFEL, a Limited Liability Law Partnership LLP, and answers the Seaman's Complaint for Damages for Personal Injuries Under the Jones Act and the General Maritime Law, Complaint for Personal Injury Damages, Loss of Consortium, filed on September 14, 2004 (the "Complaint"), as follows:

FIRST DEFENSE

PRELIMINARY ALLEGATIONS

1. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint and therefore denies the same.

2. In response to Paragraph 2 of the Complaint, Defendant admits that BLUE DOLPHIN CHARTERS, LTD. is a Hawaii corporation, doing business in Hawaii, with its principal place of business on the Island of Kauai. Defendant denies any and all remaining allegations of said Paragraph 2.

NINTH DEFENSE

39. Defendant will rely upon the Primary Duty Rule.

TENTH DEFENSE

40. Defendant pleads and is entitled to and hereby claims the benefits of the Limitation of Shipowner's Liability Act, 46 U.S.C. App. §183 *et seq.* and all acts amendatory thereof and supplemental thereto.

ELEVENTH DEFENSE

41. The accident and injuries alleged were caused by an Act of God.

TWELFTH DEFENSE

42. Defendant will rely upon the defenses of superseding, supervening and/or intervening cause.

THIRTEENTH DEFENSE

43. Defendant will rely upon the defenses of waiver and estoppel.

FOURTEENTH DEFENSE

44. Plaintiffs' claims are preempted by federal law.

FIFTEENTH DEFENSE

45. Defendant gives notice that it may assert any other matter constituting an avoidance or an affirmative defense to the extent a factual basis therefore is disclosed through further investigation and discovery.